IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 29TH NOVEMBER 2006 / 8TH AGRAHAYANA 1928

Crl.Rev.Pet.No.29 of 1999(C)

CRL.A.273/1995 OF THE COURT OF THE II ADDITIONAL SESSIONS JUDGE, ERNAKULAM.

C.C.8/1993 OF THE COURT OF THE JUDICIAL MAGISTRATE OF THE IST CLASS-I, ERNAKULAM.

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REVISION PETITIONER/APPELLANT/ACCUSED:-

MUJEEB, S/O.MOIDEEN PILLAI,
PANACHIKKAPARAMBIL VEEDU, ELAMAKKARA DESOM.

BY ADV. SRI.K.A.JALEEL

RESPONDENT/RESPONDENT/COMPLAINANT:-

STATE OF KERALA,
(REPRESENTED BY CIRCLE INSPECTOR OF POLICE,
ERNAKULAM TOWN - CRIME NO.43/92 OF
ERNAKULAM TOWN POLICE STATION),
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.RAVEENDRA BABU.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K.Bali,C.J.

Crl.R.P.No.29 of 1999-C

Dated, this the 29th day of November, 2006

ORDER

V.K. Bali, CJ. (Oral)

Petitioner (A1), along with his co-accused Rasheed (A2) and Ubaid (A3), were tried for the offences under Sections 379, 414 and 471 read with Section 34 of Indian Penal Code. After trial, whereas the petitioner has been held guilty, the other accused were acquitted. The petitioner has been sentenced to undergo rigorous imprisonment for three years under Section 379 and rigorous imprisonment for six months each under Sections 414 and 471 of Indian Penal Code. The sentences were ordered to run concurrently, as would be clear from the order dated 28th August, 1995 passed by the Judicial Magistrate of the First Class-I, Ernakulam. The appeal carried against the order aforesaid was dismissed by the II Additional Sessions Judge, Ernakulam vide order dated 12th October, 1998. It is against these two orders that the present revision has been filed.

2. The allegation against the petitioner is that he had stolen a Yamaha Motor Cycle.

3. Without joining issues on the merits of the case, learned counsel for the petitioner contends that the occurrence

pertains to the year 1992 and in the manner aforesaid, the petitioner has suffered a protracted trial spanned over a period of more than 14 years and, therefore, the petitioner may not be sent to serve a term of jail, particularly when the petitioner was only aged 20 at the time of commission of the offence and no other crime has been registered against him.

4. This Court finds considerable merit in the contention of the learned counsel as made above and is of the view that ends of justice would be served if the petitioner, instead of serving the jail term, be asked to pay fine. Accordingly, while maintaining the order of conviction, the order of sentence is set aside. The petitioner is directed to pay a fine of Rs.10,000/- (Rupees ten thousand only) within two months from today. If, however, the fine is not paid, the petitioner would serve the sentence imposed by the Courts below.

With the modification as made above to the orders passed by the Courts below, the present revision is disposed of.

V.K.Bali
Chief Justice

vku/-